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County of Santa Clara,
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Case #16CV294833
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

STEPHEN BUSHANSKY, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

ALLIANCE FIBER OPTICS PRODUCTS,
INC., PETER C. CHANG, GWONG-YIH LEE,
JAMES C. YEH, RICHARD B. BLACK, RAY
SUN, CORNING INCORPORATED,
APRICOT MERGER COMPANY and DOES
1-25, inclusive,

Defendants.

Case No. 16CV294245

CLASS ACTION

~~PROPOSED~~ ORDER
PRELIMINARILY APPROVING
SETTLEMENT AND PROVIDING FOR
NOTICE

Department: 1
Judge: Hon. Brian C. Walsh
Date: January 25, 2019
Time: 9:00 AM

BAHMAN KHAKI, Individually and On Behalf
of All Others Similarly Situated,

Plaintiff,

vs.

ALLIANCE FIBER OPTICS PRODUCTS, INC.,
PETER C. CHANG, GWONG-YIH LEE, JAMES
C. YEH, RICHARD B. BLACK, RAY SUN,
CORNING INCORPORATED, APRICOT
MERGER COMPANY and DOES 1-25 ,
inclusive,

Defendants.

Case No. 16CV294833

CLASS ACTION

1 WHEREAS, the above-captioned related putative class actions are pending before the Court
2 (the "Actions");

3 WHEREAS, the parties having made application for an order approving the settlement of
4 the Actions, in accordance with a Stipulation of Settlement dated as of August 24, 2017 (the
5 "Stipulation"), which, together with the Exhibits annexed thereto, sets forth the terms and
6 conditions for a proposed settlement of these Actions and for a Judgment upon the terms and
7 conditions set forth therein; and the Court having read and considered the parties' Stipulation and
8 the Exhibits annexed thereto; and

9 WHEREAS, all defined terms contained herein shall have the same meanings as set forth
10 in the Stipulation.

11 NOW, THEREFORE, IT IS HEREBY ORDERED:

12 1. Pursuant to § 382 of the California Code of Civil Procedure, the Court certifies, for
13 purposes of effectuating this settlement only, a Settlement Class consisting of all record and
14 beneficial holders of the common stock of Alliance Fiber Optic Products, Inc. ("AFOP") at any
15 time during the period beginning on and including April 7, 2016 (the date the Acquisition was
16 publicly announced) through and including June 3, 2016 (the effective date of consummation of
17 the Acquisition), including any and all of their respective legal representatives, heirs, successors,
18 successors in interest, predecessors, predecessors in interest, trustees, executors, administrators,
19 transferees and assigns, and any Person or entity acting for or on behalf of, or claiming under, any
20 such forgoing holders, immediate and remote, except for the Defendants (the "Settlement Class").

21 2. With respect to the Settlement Class, this Court finds and concludes, for purposes
22 of this settlement only, that: (a) the Members of the Settlement Class are so numerous that joinder
23 of all Settlement Class Members in the Actions is impracticable; (b) there are questions of law and
24 fact common to the Settlement Class which predominate over any individual questions; (c) the
25 claims of the Plaintiffs are typical of the claims of the Settlement Class; (d) the Plaintiffs and their
26 counsel have fairly and adequately represented and protected the interests of all of the Settlement
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1 Class Members; and (e) a class action is superior to other methods for the fair and efficient
2 adjudication of the matter.

3 3. The Court does hereby preliminarily approve the Stipulation and the settlement set
4 forth therein, subject to further consideration at the Settlement Hearing described below.

5 4. The Court does hereby appoint WeissLaw LLP and Brodsky & Smith LLC as Co-
6 Lead Counsel for Plaintiffs and the Settlement Class, and Plaintiffs Stephen Bushansky and
7 Bahman Khaki as Class Representatives. The Court preliminarily finds that the Class
8 Representatives and Co-Lead Counsel fairly and adequately represent and protect the interests of
9 the absent Settlement Class Members in accordance with Cal. Code Civ. Proc. § 382.

10 5. A hearing (the "Settlement Hearing") shall be held before this Court on Apr. 26,
11 2019, at 9am, at the Superior Court of the State of California, County of Santa Clara, 191 N. 1st
12 St., San Jose, CA, 95113, to determine whether the proposed settlement of the Actions on the terms
13 and conditions provided for in the Stipulation is fair, reasonable, and adequate to the Settlement
14 Class and should be approved by the Court; and whether a Judgment as provided in ¶ 1.12 of the
15 Stipulation should be entered herein. The Court may continue or adjourn the Settlement Hearing
16 without further notice to Members of the Settlement Class.

17 6. The Court approves, as to form and content, the Notice of Settlement of Class Action
18 (the "Notice") annexed as Exhibit B-1 hereto, and Summary Notice of Settlement of Class Action
19 ("Summary Notice") annexed here as Exhibit B-2, and finds that the mailing and distribution of the
20 Notice, and the publication of the Summary Notice substantially in the manner and form set forth
21 in ¶¶ 6-9 of this Order meet the requirements of § 382 of the California Code of Civil Procedure,
22 California Rules of Court, Rule 3.766, and due process, and is the best notice practicable under the
23 circumstances and shall constitute due and sufficient notice to all Persons entitled thereto.

24 7. KCC LLC is appointed to act as Notice Administrator to supervise and administer
25 the notice procedure subject to such supervision and direction of AFOP's Counsel or the Court as
26 may be necessary or the circumstances require as more fully set forth below. AFOP or its successor
27 shall pay all reasonable costs and expenses in providing notice to the Settlement Class.
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1 8. No less than sixty (60) calendar days before the Settlement Hearing, the Notice
2 Administrator shall cause a copy of the Notice, substantially in the form annexed hereto as Exhibit
3 B-1, to be (i) mailed by first-class mail to all Settlement Class Members who can be identified with
4 reasonable effort; (ii) posted on the Legal Notice System of the Depository Trust Company; and
5 (iii) posted on a dedicated website that they shall design and host.

6 9. No less than sixty (60) calendar days before the Settlement Hearing, the parties shall
7 cause a copy of the Summary Notice, substantially in the form annexed hereto as Exhibit B-2, to
8 be (i) electronically published on a national newswire service such as PR Newswire; (ii) published
9 in a national print publication such as Investor's Business Daily; and (iii) posted, along with the
10 Notice and other Settlement-related documents, on the Plaintiffs' Counsel's websites.

11 10. At least seven (7) calendar days prior to the Settlement Hearing, Counsel for AFOP
12 or its successor(s) in interest, shall file with the Court proof, by affidavit or declaration, of such
13 mailing of the Notice and other notice procedures.

14 11. Nominees who held AFOP common stock at any time during the period from April
15 7, 2016 through and including June 3, 2016, for the beneficial ownership of another shall mail the
16 Notice to all such beneficial owners of such common stock within ten (10) calendar days after
17 receipt thereof or send a list of the names and addresses of such beneficial owners to the Notice
18 Administrator within ten (10) calendar days of receipt, in which event the Notice Administrator
19 shall promptly mail the Notice to such beneficial owners.

20 12. All Members of the Settlement Class who have not validly Opted-Out¹ shall be
21 bound by all determinations and judgments in the Actions concerning the settlement, whether
22 favorable or unfavorable to the Settlement Class.

23 13. Any Settlement Class Member may enter an appearance in the Actions, at their own
24 expense, individually or through counsel of their own choice. If they do not enter an appearance,
25 they will be represented by Plaintiffs' Counsel.

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28 ¹ Defined below.

1 14. Unless and until the settlement is canceled and/or terminated pursuant to ¶ 6.2 of the
2 Stipulation, neither the Plaintiffs nor any Settlement Class Member who has not validly Opted-Out,
3 either directly, representatively, or in any other capacity, shall commence or prosecute against any
4 of the Released Persons, any action or proceeding in any court or tribunal asserting any of the
5 Released Claims.

6 15. Any Settlement Class Member who does not wish to participate in the settlement
7 and wishes to be excluded from the Settlement Class shall, no later than fourteen (14) calendar days
8 prior to the Settlement Hearing, submit a request to be excluded from the Settlement Class (“Opt-
9 Out”). All Opt-Out requests must be sent via first-class mail to the Notice Administrator and
10 include (i) a written statement that the Settlement Class Member wants to be excluded from the
11 Settlement Class of the settlement of the Actions; and (ii) the Settlement Class Member’s full name,
12 address, telephone number, email address, and signature.

13 16. Any Settlement Class Member who has reasons why the proposed settlement of the
14 Actions should not be approved as fair, reasonable, and adequate, or why the Judgment should not
15 be entered thereon may (i) submit a written objection to contest the approval of the terms and
16 conditions of the proposed settlement or, if approved, the Judgment to be entered thereon approving
17 the same (“Written Objection”); (ii) appear and show cause at the Settlement Hearing to contest the
18 approval of the terms and conditions of the proposed settlement or, if approved, the Judgment to be
19 entered thereon approving the same and make an oral objection at the Settlement Hearing (“Oral
20 Objection”); or (iii) both submit a Written Objection and appear at the Settlement Hearing and
21 make an Oral Objection. In order to make a valid Written Objection, the Settlement Class Member
22 must, not later than fourteen (14) calendar days prior to the Settlement Hearing, file with the
23 Superior Court of the State of California, County of Santa Clara, 191 N. 1st St., San Jose, CA,
24 95113, and serve upon counsel listed below any Written Objection to the settlement and copies of
25 any papers and briefs in support thereof. Such filings shall be served by e-filing, hand delivery or
26 overnight mail upon the following counsel: Evan J. Smith, Brodsky & Smith, LLC 9595 Wilshire
27 Blvd., Suite 900, Beverly Hills, CA 90212; David M. Lisi and Ryan Selness, Pillsbury Winthrop
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Shaw Pittman LLP, 2550 Hanover Street, Palo Alto, CA 94304; Alan S. Goudiss, Shearman & Sterling LLP, 599 Lexington Ave., New York, New York 10022. Any Settlement Class Member who does not make his, her, or its Written Objection in the manner provided or appear at the Settlement Hearing to make his, her or its Oral Objection will be deemed to have waived such objections and shall forever be foreclosed from making any objections to the fairness or adequacy of the proposed settlement as incorporated in the Stipulation unless otherwise ordered by the Court.

17. Plaintiffs shall file and serve their opening brief in support of the settlement and their application for attorneys' fees and expenses no later than twenty-eight (28) calendar days prior to the Settlement Hearing. Any Written Objections to the settlement and Defendant's opposition to Plaintiffs' application for attorneys' fees and expenses shall be filed and served no later than fourteen (14) calendar days prior to the Settlement Hearing. If any Written Objections or oppositions to the Settlement, Plaintiffs' application for attorneys' fees or any relief requested in connection therewith are received or filed, Plaintiffs and/or Defendants may file and serve a brief in response to those Written Objections or oppositions no later than seven (7) calendar days prior to the Settlement Hearing.

18. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as (i) an admission or concession by Defendants of the truth of any of the allegations in these Actions, or of any liability, fault, or wrongdoing of any kind; or (ii) as an admission or concession by Plaintiffs that the allegations in these Actions are anything other than meritorious.

19. The Court reserves the right to adjourn the date of the Settlement Hearing or extend any of the deadlines set forth in this Order without further notice to the Members of the Settlement Class, and retains jurisdiction to consider all further applications arising out of or connected with


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the proposed settlement. The Court may approve the settlement, with such modifications as may be agreed to by the Settling Parties, if appropriate, without further notice to the Settlement Class.

IT IS SO ORDERED.

DATED: 1-28-19



THE HONORABLE BRIAN C. WALSH
SUPERIOR COURT JUDGE